

### REMARKS

Claims 1-23 are pending.

In the Office Action dated October 24, 2008, claims 1-15 and 23 were rejected under 35 U.S.C. § 112, ¶ 2; and claims 1-23 were rejected under 35 U.S.C. § 102 over Mike Ko, RDMA Consortium, "Technical Overview of iSCSI Extensions for RDMA (iSER) & Datamover Architecture for iSCSI (DA) (hereinafter "Ko Technical Overview").

### REJECTION UNDER 35 U.S.C. § 112, ¶ 2

With respect to the objection raised by the Office Action with respect to the term "protocol" in claim 1, Applicant has amended claim 1 to replace "protocol" with "protocol layer." Therefore, this rejection of claim 1 has been overcome.

With respect to claims 1 and 8, the Office Action argued that language following "a first protocol layer for" and "a second protocol layer for" in those claims constitute "intended use limitations" that make optional the claimed subject matter. Although Applicant respectfully disagrees with this assessment, Applicant has nevertheless amended these claims to render the rejection moot. The amendments have been made to clarify that these elements are not to be construed as means-plus-function elements according to 35 U.S.C. § 112, ¶ 6.

In view of the foregoing, withdrawal of these rejections is respectfully requested.

### REJECTION UNDER 35 U.S.C. § 102

A Declaration Under 37 C.F.R. § 1.312 is being submitted herewith to establish that the portions of the Ko Technical Report, including the portions relied upon by the Office Action in the rejection, describe subject matter developed by the inventor of the present application.

The Rule 132 Declaration attributes the content of certain portions of the Ko Technical Report (including those portions relied upon by the Office Action in the rejection) to the inventor of the present application. The Rule 132 Declaration establishes that the content of certain portions of the Ko Technical Report (including those portions relied upon by the Office Action in the rejection) originated with or was obtained from the inventors of the present application. As set forth in M.P.E.P. § 716.10, such attribution of a prior reference to the applicant is

sufficient to remove the prior reference (in this case the Ko Technical Overview) as prior art. *See* M.P.E.P. § 716.10 (8<sup>th</sup> ed., Rev. 6), at 700-303.

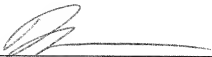
In view of the Rule 132 Declaration, the Ko Technical Overview has been overcome as a reference, and therefore, the § 102 rejection of the claims over the Ko Technical Overview has been overcome.

Allowance of all claims is respectfully requested.

The Commissioner is authorized to charge any additional fees and/or credit any overpayment to Deposit Account No. 08-2025 (200501394-1).

Respectfully submitted,

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